

JOINT ACTION

DEPARTMENT OF STATE

## AIRGRAM

(Departmental and Foreign Service)

RM/R	REP	AF
ARA	EUR	FE
NEA	CU	INR
E	P	IO
L	FBO	ICA
AGR	COM	FRB
INT	LAB	TAR
TR	XMB	AIR
ARMY	CIA	NAVY
OSD	USIA	

NO.

OFFICIAL USE ONLY

TO : DEPARTMENT OF STATE

FROM : Amembassy DJAKARTA

DATE: June 28, 1962

SUBJECT: Investment Guaranties in Connection with  
Production Sharing Arrangements  
REF : Dept. instruction W-71 dated 2/13/62

## JOINT EMBASSY/USAID MESSAGE

In recent months the GOI has shown an increasing interest in production sharing arrangements for financing certain enterprises, and on May 18 the President in a major economic message reiterated his approval of this concept. While no details have been announced the broad outlines of the concept are clear from several of these agreements which are now in effect. Some of these have been described in Embassy despatches as follows: No. 554 dated 1/26/61 (Permina oil), No. 738 dated 5/7/62 (palm oil plant), and No. 807 dated 5/28/62 (coffee and rubber processing). Since forwarding these despatches two more prospects for production sharing arrangements have come to the attention of the Embassy.

Representatives of the Kaiser Aluminum Company were in Djakarta recently for preliminary discussions which might lead to an investment in Sulawesi nickel in the magnitude of \$100 million. They indicated that their company would be willing to consider financing this large project on a production sharing basis. The U. S. Plywood Corporation is now seeking timber resources which would support a veneer and plywood manufacturing installation with an annual output valued at about \$20 million. The company is considering several areas for development including Indonesia, the Philippines, South Viet Nam, North Borneo, Serawak, Thailand, and India. The representative of the company who was in Djakarta early in June stated that the production sharing method of financing a veneer-plywood installation appears practicable, and he thought his company would give it serious consideration. For both projects, the American companies would buy the entire

FORM DS-323  
11-61

OFFICIAL USE ONLY

FOR DEPT. USE ONLY

☒ In ☐ Out

Drafted by:

ECON/EMB:JAVanSwearingen/USAID:KNathan:amc

Contents and Classification Approved by:

ECON/EMB:JWLydman

Clearances:

USAID:GGurow

42-49

00982

DECLASSIFIED  
Authority NND 949629  
By Lat NARA Date 8/11/00

PAGE 2 of AIRGRAM NO. A-645 from DJAKARTA

OFFICIAL USE ONLY

output.

Because of these and other similar projects described in earlier despatches, it appears propitious once again to raise with the GOI the question of an investment guaranty agreement. It would appear that such an agreement would need to be based on the production sharing concept. Embassy/USAID reading of the pertinent legislation suggests that a "production sharing guaranty program" might be formulated. Production sharing involves a foreign loan for the purchase of equipment rather than an equity investment, and this is encompassed by Section 221(b) of PL 87-195 (see Section-by-Section Analysis of the Foreign Assistance Act of 1961). The legislation (Section 223(b)) also guarantees the creditor against some breaches of contract, a feature which would be of importance to the creditor in a situation such as that described for the West German-financed palm oil plant (Embassy despatch 738). As will be noted from Article III, paragraph 10, of the preliminary contract for this project (attachment to Embassy despatch 738), the GOI has contracted to deliver a specified amount of palm fruit for the operation of the plant. Successful operation of the plant depends on adherence to this contract, and protection afforded the creditor against violation of such a contract would stimulate loans of this type. This also appears to be a consideration in the proposal for a coffee processing station as described in Embassy despatch 807. Mr. Carl Borchsenius and Mr. Shaw both wondered how they might be assured of a regular supply of coffee for processing, and whether or not a contract with the GOI for the delivery of a specified amount of coffee would provide them with the assurance they would need before establishing a processing plant.

High level GOI officials have expressed strong objection to conclusion of an investment guaranty agreement for the expressed reason that Indonesian Government policy is opposed to foreign "investment" as such, so that another term would have to be used such as "production sharing guaranty agreement" (TOAID A-1728). Section 221 of the F.A. Act would seem to provide considerable leeway in this connection. Moreover, it might permit individual guaranties even without prior conclusion of a basic bilateral agreement. We believe that it might be considerably easier, at least initially, to obtain GOI concurrence in individual guaranties rather than in advance negotiation of a basic agreement (Section-by-Section Analysis of Section 221(a)).

With particular reference to Embtel 2134, we propose to urge the GOI to carry out an intention recently mentioned informally to Embassy and USAID personnel, i.e., to issue a note or letter to foreign governments calling attention to GOI policies favoring private foreign loans under production sharing arrangements and to spell out this policy in some detail. There is no assurance, however, that such a more detailed statement will in fact be issued. EMB/USAID continue to press for such a statement, and the Washington

OFFICIAL USE ONLY

0 0 9 8 3

DECLASSIFIED  
Authority NND 949629  
By 207 NARA Date 8/11/00

PAGE 3 of AIRGRAM NO. A-04 from DJAKARTA

OFFICIAL USE ONLY

agencies may wish to address the same question to the Indonesian Embassy in Washington. Specifically, Embassy/W might be requested to elaborate on President Sukarno's May 18 statement concerning production sharing arrangements as reported in Embassy despatch 806 dated 5/28/62, page 4.

However, stimulation of further interest by U.S. enterprises in production sharing possibilities need not await additional public announcements by the GOI. It would undoubtedly help attract additional U.S. enterprises if guaranties under the Investment Guaranty legislation were available for such arrangements and if the GOI were to indicate its willingness to participate in this program. Accordingly, EIB/USAID would appreciate earliest possible confirmation that = (1) production sharing arrangements as described in the above mentioned despatches are in fact eligible for investment guaranties; (2) such guaranties may be issued without use of the term "investment"; and (3) they may be issued even in the absence of the basic country-to-country agreement.

Confirmation as requested will permit us to pursue the matter with the GOI with the prospect of securing greatly increased participation of U.S. private capital, possibly aided by AID loans in Indonesia's economic development.

JONES

*JM*

OFFICIAL USE ONLY

0 0 4 8 4

DECLASSIFIED  
Authority NND 949629  
By Lat NARA Date 8/11/00